

ASSEMBLY BILL

No. 2439

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Section 120991 of the Health and Safety Code, relating to HIV testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as introduced, Nazarian. HIV testing.

Existing law requires that every patient who has blood drawn at a primary care clinic, as defined, and who has consented to the test to be offered an HIV test that is consistent with the United States Preventive Services Task Force recommendations for screening for HIV infection. Existing law specifies the manner in which the results of that test are provided.

This bill would, additionally, apply those provisions to the emergency department of a general acute care hospital. The bill would authorize a hospital emergency department to comply with certain requirements to provide information, counseling, and advice to a patient after the results of an HIV test have been received by providing the patient with printed material that includes that information and advice. The bill would exempt a hospital emergency department from the testing requirements if the personnel in the emergency department determine that the person is being treated for a life-threatening emergency or if the person lacks the capacity to consent to an HIV test.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 120991 of the Health and Safety Code is amended to read:

120991. (a) Each patient who has blood drawn at a primary care clinic *or hospital emergency department* and who has consented to the HIV test pursuant to Section 120990 shall be offered an HIV test. The primary care *or hospital emergency department* clinician shall offer an HIV test consistent with the United States Preventive Services Task Force recommendation for screening HIV infection. This subdivision shall not apply if the primary care clinic *or hospital emergency department* has tested the patient for HIV or if the patient has been offered the HIV test and declined the test within the previous 12 months. Any subsequent testing of a patient who has been tested by the primary care clinic *or hospital emergency department* shall be consistent with the most recent guidelines issued by the United States Preventive Services Task Force.

(b) HIV testing of minors 12 years of age or older shall comply with Section 6926 of the Family Code.

(c) This section shall not prohibit a primary care clinic *or hospital emergency department* from charging a patient to cover the cost of HIV testing. The primary care clinic *or hospital emergency department* shall be deemed to have complied with this section if an HIV test is offered.

(d) A primary care clinic *or hospital emergency department* shall attempt to provide test results to the patient before he or she leaves the facility. If that is not possible, the facility may inform the patient who tests negative for HIV by letter or by telephone, and shall inform a patient with a positive test result in a manner consistent with state law. However, in any case, the primary care clinic *or hospital emergency department* shall comply with subdivision—(g) (h) of Section 120990. *A hospital emergency department is deemed to be in compliance with subdivision (h) of Section 120990 if the hospital emergency department provides printed material to the patient that includes the information and advice described in that subdivision.*

(e) *A hospital emergency department shall not be required to comply with this section if medical personnel in the emergency department determine that the person is being treated for a*

1 *life-threatening emergency or if they determine that the person*
2 *lacks the capacity to consent to an HIV test.*

3 *(f) For purposes of this section, the following terms have the*
4 *following meanings:*

5 *(1) "Hospital" means a general acute care hospital as defined*
6 *in subdivision (a) of Section 1250.*

7 ~~*(e) For purposes of this section, "primary*~~

8 *(2) "Primary care clinic" means a primary care clinic as defined*
9 *in subdivision (a) of Section 1204 or subdivision (g), (h), or (j) of*
10 *Section 1206.*